

September 28, 1998
Keith D. Allred
Red Cedar Corp.
Aqua-culture and Wildlife Management
Granite Ranch
Trout Creek, Ut.
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WATER RIGHTS
SALT LAKE

Mr. John Mann
Department of Natural Resources
Division of Water Rights
1594 West North Temple
Salt Lake City, Ut. 84114-6300

Mr. John Mann,

Upon inspection of The Red Cedar power plant and the diversion in Granite Creek, on Aug. 12th, 1998, I found that Mr. Douglas has had a four inch pipe line installed into our spillway bypass and is taking water down his pipe line to his ranch. This has reduced the power generation in our plant and is seriously harming our crops. We have no ground water. Our soil is mostly sand. We sprinkle irrigate, we do not flood irrigate. Hay crops that do not receive water every three to four days on our ground ceases to grow and go into early bloom causing us to cut unmatured product. This behavior will not reverse if the water is returned to the plant after several days. Substantial crop loss will be sustained due to your office's August 3rd order. I feel your office is liable for these losses.

I was called by Mr. Glen Allred following your phone call to him. He had been contacted early in the day by you with reference to my letter to your boss dated Aug. 10, 98. He said you seemed to be upset with me because of my letter to your boss regarding our reservoir and water rights. Mr. Glen Allred said that, "Mr. Mann did not like to be called incompetent. That, "Mr. Mann could not understand why I would act or address his office so harshly." That, "he felt it was unwarranted." Also that you "thought you had a good working relation the him (Glen)." You may have a good working relation with Glen but your actions have compromised my working relationship with Glen.

This is my position:

On July 26th or 27th I was called into Mr. Glen Allred's office to make an accounting of my time spent at the reservoir and its related facilities including the trees and willows that were "establishing" around the reservoir. Mr. Glen Allred was concerned about our water consumption and I assured him that I was keeping close records and "that we will be ok."

Each and every Monday, at 8:30 AM, I make a report of our water conditions to Mr. Glen Allred, and Bill Bronson, Clint Bronson and Jared Reynoso, who work in the fields, to inform them of our water situation so they may adjust for the available water. This becomes crucial at the end of each season. I am employed to watch the water situation.

August 3rd, at an 8:30 AM regular meeting, I reported that, "with the remaining water we have we would have enough water to complete 3rd crop on number 5 pivot and if water continues to hold that we could get a 4th crop off of number 3 pivot.

I was asked, "Are you sure?"

I answered, "Yes."

On August 10th, Mr. Glen Allred called me into his office and asked me to explain the letters that your office sent him pertaining to the reservoir and water rights. Mr. Glen Allred was questioning whether, "I was competent in my job."

Such as:

"Keith, We spent a lot on those trees and willows. We have paid you a considerable amount to care for them. What the crap is going on."

"Keith, You assured me that, "we had sufficient water, enough to do number 5." "This is a bunch of crap and I'm sick of it." "Where are your records?"

In 1994, upon my recommendation and after considerable research, Red Cedar spent several thousand dollars and hired me to plant and care for the trees and willows. I have faithfully done so to date. I assured Mr. Glen Allred that it was a good and profitable project.

Mr. Glen Allred has already been questioning my efforts at the reservoir and was considering making adjustments to my wages because of his doubts. Your office's comments only confirmed his concerns as to whether I had made a competent evaluation of Red Cedar's needs at the reservoir and with the water.

Considering the July 27th meeting, the weekly Monday meetings and especially the August 3rd meeting, where I "precisely" reported our water situation, it's no wonder that I took offence at your office's letters.

Mr. Mann, your comments, implies to Mr. Glen Allred that I had not done what I had been paid to do.

- A. If, someone, anyone, at the Granite Ranch had been contacted,
- B. if, reports from both parties had been utilized,
- C. if, a water commissioner had been used, for which Mr. Douglas has been compensated, for several years. These letters would have never needed to be sent by either your office or myself.

Your office's letters, to Mr. Glen Allred, imply incompetence, ignorance, inability, inadequacy and poor labor ethics, on my part, to Mr. Glen Allred. I am left with no recourse but to defend my position to Mr. Glen Allred by condemning yours. I have done my job for Mr. Glen Allred (Red Cedar Corp.) and have done it well. I have not made assumptions. I have personally seen all pertinent water issues on a daily basis and have made records of them. Mr. Douglas' included.

I have personally checked Mr. Douglas' meter on Granite Creek several times this year. Mr. Douglas' meter worked only once and under the following conditions:

Subsequent to your offices meeting with Mr. Allred and Mr. Douglas to resolve the water situation this year, Mr. Allred and Mr. Douglas went up to the Granite Creek diversion point to work out the details of the agreement. I did my daily chores then checked the Red Cedar weir and Douglas' meter. Douglas' meter was not working. I then proceeded up Granite Canyon and met them coming down. I turned around and came back down with them to Douglas' meter. It was not working so Mr. Douglas hammered it several times with a large rock until the needle begin to bounce about $\frac{3}{4}$ of an inch. Whereupon he said. "It bounces a little but it averages about 250 gal. per minute. I again checked it later that day and it had again stopped. I informed Mr. Douglas 5 minutes later.

I have his meter reading recorded and I am curious as to the reading that he gave you to make you believe he was right about his water rights and that I was wrong about Red Cedar's water rights. I check his diversion point not his meter. His meter has never worked when I have checked it.

At his diversion point, Mr. Douglas has left his weir full open from early April to now. He claims he can take 4 second feet of water. That's' four months at 4 second feet of water. Add it up. (Paul Dremann to Mr. Sims) "Simple mathematics will show instream flows from the creek have been sufficient to fill their allocated share of water earlier this summer, as Mr. John Man has shown on a recent field review."

May I have a copy of that "field review" with its sufficient data to suspect or exclude my records or deem it unessential to speak with anyone from Red Cedar.

Well Mr. Mann your good works bulldozes on. I have recently received a letter addressed to your office from Trout Unlimited. It was given to me by C. Thompson of DWR whom I have been working with for years on reestablishing the fisheries. Mr. Thompson claims it was my misuse of water, as alleged by your office, that has set back their (DWR) project. That letter has been widely distributed. It also is full of comments and assumptions of my and Red Cedar's incompetence "suspect records", and accusations of unlawful use of "public water" by Red Cedar. All of which are supported by your offices unwarranted letters to Mr. Glen Allred.

Thanks again Mr. Mann. I believe you and/or your office have an obligation to redeem Red Cedar Corp. and also my own credibility to all persons that have received your letters, comments, or letters and comments generated by others because of your offices actions.

It just goes on doesn't it Mr. Mann. Please have your office retract their unsubstantiated letters and stop this obstruction of legal rights.

I request a copy of your response to Trout Unlimited. Letter dated September 2nd 1998 signed by Paul Dremann.

In your response please respond to all allegations listed below. John, your office may feel that some of these issues or allegations are not pertinent to you or your office's jurisdiction or administration. However the actions of your administration with reference to Red Cedar's water rights have been far reaching and have caused a considerable amount of damage and concern. Please respond to the following:

1. Unregulated taking of water by Red Cedar Corp.
 - a. No state regulations have been compromised by Red Cedar.
 - b. Douglas may have been taking unregulated water but kept no records
 - c. Douglas did not obtain a water commissioner as ordered by the Court. Red Cedar has paid for one.
2. Water over and above allocation for last several years.
 - a. Red Cedar has never taken water over and above their allocated right. Check our own records.
 - b. Any waters that "The Corporation" lets by their diversion to go down the stream are taken by Mr. Douglas.
 - c. By "Simple mathematics, Douglas, not Red Cedar has taken water over and above allocation.
 - d. After Corporations first right of use of allocated water and Douglas' second right of use of allocated water then "The Corporation" has third right of use of allocated water which has never been exceeded.
3. Dewatering of fisheries.
 - a. The stream below Red Cedar Diversion point has been classified as a dewatered stream by both your office and BLM as shown in letters to FERC, not as a fisheries.
 - b. Any water passing Red Cedar's diversion for riparian usage is taken by Mr. Douglas.
 - c. Red Cedar Corp. for the past several years has been working personally with The DWR to increase the Deep Creek fisheries not reduce it.
4. New diversion dam in Red Cedar.

- a. Neither diversions are new as pertaining to right. These rights have existed long before any of us were alive. Our right to use the water that we use also includes the right to repairs or replacement Of 70 year old deteriorating water facilities and structures.
- 5. Declination of riparian vegetation over the last five years.
 - a. Any waters passing the Red Cedar Diversion over and above our allocation are taken by Mr. Douglas.
 - b. Arial maps show they have increased over the past few years not declined.
 - c. Waters from Granite and Red Cedar Creeks is allowed to go down stream, clear to the mud flats, every year.
 - d. Douglas' point of diversion is after Red Cedar's diversion point.
- 6. Once productive recreational fisheries for local west desert residents.
 - a. Ask the DWR who has been depopulating (poisoning) the fisheries.
 - b. I have personally worked the water rights on these streams over many years. The decrease in fish populations took place in the sixties, not in the last few years.
 - c. Doug Sakaguchi DWR Wildlife Bio. Aquatic, in a meeting held at Six Mile Ranch in 1991 to discuss possible COR's for Six Mile and Granite Ranches. "The decline of the fisheries seen in the late 60's in the Deep Creek Mountains is not due to any deforestation, mining, development or (water loss). It has been a selective act of nature. The DWR has been working since 1972 to aid in the recovery of these fisheries."
 - d. West desert residents have not taken water in any amounts over their rights in all these years unless it has been Mr. Douglas.
- 7. Utah Division of Wildlife Resources is planning an active recreational and conservation fisheries program ... needs to return public water to stream.
 - a. Their plan does not include (dewatered stream beds).
 - b. There are no cut throat trout in Granite or Red Cedar Creeks.
 - c. Any programs established by the DWR will be in cooperation with existing water rights of all water users in the Deep Creek Mountains.
 - d. Red Cedar Corp has been personally working with The DWR for many years to help restore the cut throat trout in the Deep Creek range. It Trout Unlimited (Don Duff) that under mined the DWR (Charley Thompson) at the Sept. 3rd Regional Advisory Council, and Sept 24th Utah Wildlife Board meetings. It may now be impossible for the DWR to work with the fish.
 - e. Your offices letters were used to discredit Mr. Charley Thompson of the DWR at these meetings.
- 8. Corporations to "take" public water.
 - a. Corporation takes only their own water and by legal right.
- 9. Enough water for corporations and to pass by.
 - a. If this is true then why is Douglas not letting it pass by his diversion but is taking it all. His diversion is downstream from ours.
- 10. Once share has been utilized, streamflow should continue.
 - a. It has for as long as Red Cedar has had anything to do with it.
- 11. The Court has dictated the amount of waters both corporation and Douglas is to get.
 - a. Red Cedar has kept all Court dictates.
 - b. "By simple mathematics" Douglas has not.
 - c. After Douglas' secondary right, the water right goes back to Red Cedar. As Douglas' water right was up in June or July, Red Cedar continued to take water under their "legal" right.
- 12. The corporation has been ignoring this Order.
 - a. What Order has Red Cedar ignored?
 - b. The only order that I am aware of that has not been kept is the one that Mr. Douglas has not kept nor your office pertaining to a water commissioner and subsequent records. Read the court order!

13. August 7th order requiring Red Cedar Corp to cease taking waters since allocation has already been reached.

- a. This was established by a "one day visit to the West Desert" called, "Mr. Mann's recent field review". This is only an assumption and has been so stated in your offices order to Red Cedar.
- b. It is "Simplify Mathematically" impossible to make a one day review without the aid of records (kept current by Red Cedar Corp. subsequent to refusal by Douglas and your office to secure a water commissioner) to make such an assumption.
- c. Red Cedar's allocation of water extends beyond Mr. Douglas' secondary right.
- d. Red Cedar legal allocation of water has never been met in the history of Red Cedar's usage of the water from either Granite or Red Cedar Creek. Check your own records and letter.

14. Simple mathematics ??????

- a. Do we really have to go there.
- b. I guess so. These mathematics will only prove that Mr. Douglas, not "the Corporation" has exceeded his right and the water right usage reverts back to "the Corporation".

15. Any records the corporation my have should be deemed "suspect".

- a. Thanks Mr. Mann for your vote of confidence in not using our records. This has been substantiated by your offices unethical, unwarranted letters and actions.
- b. Court ordered records to be kept by commissioner. That is your offices responsibility to see that that is done. Red Cedar has already paid to have it done. Your office failed not Red Cedar.
- c. By Court order Douglas to provide Commissioner. Again, our offices responsibility.
- d. Red Cedar keeps records of both water usage's' in absence of "ordered commissioner". We were left with no choice.
- e. Red Cedar has compensated Mr. Douglas for several years to provide for water commissioner. Mr. Douglas has failed to do so.
- f. Mr. Douglas has not kept court order for record keeping by a commissioner.
- g. It has been the Utah Division of Water Rights decision to not enforce the court order for a commissioner not Red Cedar. Red Cedar has always asked for a commissioner to be in place and has proved that fact by compensating Mr. Douglas for several years to secure a commissioner even when Mr. Douglas would not.
- h. To "suspect" corporate records would indicate that, your office is not in favor of records but assumptions, that your office, believes Red Cedar Corp to be liars, that your office, does not see a need for a commissioner, that "simple mathematics" and one day visits will do. NOT! I know you know better than that John.
- i. Due to assumption and the noncompliance of policy and procedure of action by your office, it is only unbiased to state that, "all statements and assumptions by Trout Unlimited should be deemed suspect." It is obvious that Red Cedar has been singled out by your office and Trout Unlimited. All Ranchers in the valley have taken all the water late in the season for over 70 years and have not over allocated their use nor have they been singled out by your office nor has the fisheries been harmed by this action..

16. Lack of filling the vacant Water Commissioner position.

- a. This has not been the actions or wishes of Red Cedar Corp.
- b. It has been the actions of Division of Water Rights and Mr. Douglas decision not to have a commissioner.

- c. Red Cedar has paid for several years for it to be done. Even when the Division of Water Rights and Douglas refused to secure one, Red Cedar Corp. still paid for one to be secured.
17. Failure of the Corporation to abide by the water law-- reason for former commissioner's departure.
- a. After further investigation by your offices it was determined that Mr. Garland had not kept records on Mr. Douglas' usage and that Red Cedar had not used full allocation.
 - b. Assumptions?
18. Compromise by Corporations illegal taking of the water.
- a. Red Cedar has never exceeded allocation of water right or taken water illegally.
19. "We request that your office rectify this situation immediately".
- a. Yes. "Please do." This is the only part of Mr. Dremann's letter I agree with or that has any truth to it. Rectification is in order and far over due. But of the truth and not of assumption.
 - b. Your office needs to "rectify this situation immediately". I feel that your unwarranted accusations have gone on long enough and have done enough damage and caused enough slander, shown enough bias, prejudice and disesteem, and shown whom your personal friends are and who is not. I don't care who you choose as friends. I do care if it distorts your ability to do your job.
 - c. Why has your office and Trout Unlimited singled out Red Cedar Corp. Douglas takes water after Red Cedar and the water still does not go down stream. How has our legal usage changed this fact
20. Recognition of right.
- a. Please include in your response, to all parties (cc.), Red Cedar's legal rights to the use of (ALL) the water they have been using.

Sincerely,


Keith D. Allred

cc Red Cedar Corp.
Director, BLM (Rex Rowley)
TU National, Conservation Counsel
Utah DWR, Central Region (C. Thompson)
Utah DWR, Utah Wildlife Board (John Kimball)
Regional Advisory Council (Rick Woodward)
Utah Division of Water Rights. (State Engineer)
BMB Enterprises
Trout Unlimited